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Type of Instrument: JUDGMENT OF FORECLOS

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Recorded: 2/28/2019

Index Number: 18 605415 Sequence Number: 1869

Plaintiff(s) :

NJCC-NYS COMMUNITY RESTORATION FUND, LLC

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Defendant(s) :

MORENO, MARGARITA

Attorney(s) :

TAX_MAP_NO:

Liber Page(s):
M00021677-059

ADDITIONAL INFORMATION EXISTS PLEASE SEE DOCUMENT
THIS PAGE IS A PART OF THE INSTRUMENT
THIS IS NOT A BILL

Judith A. Pascale
County Clerk, Suffolk County

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E-FILE

At an IAS Part 18 of the Supreme Court of the State of New York held in the County of Suffolk at the Courthouse, located at 1 Court Street, Riverhead, New York 11901 on the 7th day of February 2019

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PRESENT: HON. HOWARD H. HECKMAN, JR.
JUSTICE OF THE SUPREME COURT

21677-059

----------X

NJCC-NYS COMMUNITY RESTORATION FUND LLC,

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Plaintiff,

-against-

INDEX NO.: 605415/2018

**DEFAULT JUDGMENT AND JUDGMENT OF FORECLOSURE AND SALE**

MORTGAGED PROPERTY:
42 Wagon Lane a/k/a Wagon Lane East
Centereach, New York 11720
DSBL #: 0200-443.00-02.00-068.000

MARGARITA MORENO; STATE OF NEW YORK; NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE; "JOHN DOE #1" through "JOHN DOE #10" inclusive the names of the ten last name Defendants being fictitious, real names unknown to the Plaintiff, the parties intended being persons or corporations having an interest in, or tenants or persons in possession of, portions of the mortgaged premises described in the Complaint,

Defendants.

ENTERED: FEB 28 2019
AT: 958 am

----------X

No Direction

UPON the Summons, Complaint, and Notice of Pendency filed in this action on March 22, 2018 with proof of due service thereof; the Notice of Motion dated December 14, 2018, the Affirmation of Richard F. Komosinski, Esq., and the exhibits annexed thereto, the affidavit of amount due by Ilda Huzejrovic, Team Lead Foreclosure of Selene Finance, LP, the servicer and attorney-in-fact for NJCC-NYS

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Community Restoration Fund, LLC, the Plaintiff herein, duly sworn to on November 8, 2018 all in support of Plaintiff's motion for a Default Judgment and Judgment of Foreclosure and Sale; and

UPON proof this action was brought to foreclose a mortgage on real property located at 142 Wagon Lane a/k/a Wagon Lane East, Centereach, New York 11720, in the County of Suffolk, State of New York [District 0200, Section 443.00, Block 02.00, Lot 068.000]; and

UPON proof that each of the defendants herein has been duly served with the Summons and Complaint in this action, and did not answer or otherwise appear, nor has their time to do so been extended; and it appearing that more than the legally required number of days had elapsed since the Defendants Margarita Moreno and Kayla Hernandez were served; and Plaintiff having established to the court's satisfaction that a judgment against the defendants is warranted; and

UPON the affidavit of mailing reflecting compliance with CPLR 3215(g)(3); and

UPON proof that non-appearing defendants Margarita Moreno and Kayla Hernandez are not absent, in accordance with RPAPL §1321(2);

AND Plaintiff having waived its right to a deficiency judgment and accepted the sale of the property in full satisfaction of the mortgage debt; and

UPON proof of notice of this motion to all parties and persons entitled thereto;

NOW, on motion by Richard F. Komosinski, Esq., attorney for the Plaintiff, it is hereby

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ORDERED, ADJUDGED AND DECREED that the motion is granted; and it is further

ORDERED, ADJUDGED AND DECREED that the default of all non-appearing defendants is hereby fixed and determined; and it is further

ORDERED, ADJUDGED AND DECREED that, in accordance with the Affidavit of Merit and Amount Due dated November 8, 2018 the sum of $458,072.51 is awarded to the Plaintiff as of August 31, 2018; and it is further

ORDERED, ADJUDGED AND DECREED that the mortgaged property described in the Complaint and as hereafter described, or such part thereof as may be sufficient to discharge the mortgage debt, the expenses of the sale, and the costs of this action as provided by the RPAPL be sold, within 90 days of the date of this Judgment, in one parcel, at a public auction at the BROOKHAVEN TOWN HALL 1 INDEPENDENCE HILL FARMINGVILLE, NY 11738 by and under the direction of Daniel T. Murphy, Esq who is hereby appointed Referee for that purpose; that said Referee give public notice of the time and place of sale in accordance with RPAPL §231 in Brookhaven Reviews; and it is further

224 Griffing Ave, Riverhead NY 11901

(#516-810-7564)

J.S.C.

ORDERED, ADJUDGED AND DECREED that by accepting this appointment, the Referee certifies that he/she is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to §36.2 (c) ("Disqualifications from appointment") and §36.2 (d) ("Limitations on appointments based upon compensation"); and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee

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shall immediately notify the Appointing Judge; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee is prohibited from accepting or retaining any funds for him/~~her~~self or paying funds to him/~~her~~self without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee shall conduct the foreclosure sale only if Plaintiff, its successors and/or assignees, or its representative is present at the sale or the Referee has received a written bid and Terms of Sale from Plaintiff, its successors and/or assigns, or its representative as if Plaintiff were physically present to submit such bid; and it is further

~~ORDERED, ADJUDGED AND DECREED that if the Referee does not conduct the sale within 90 days of the date of the judgment, in accordance with CPLR 2004, the time fixed by RPAPL §1354(1) is extended for the Referee to conduct the sale as soon as reasonably practicable; and it is further~~

ORDERED, ADJUDGED AND DECREED that at the time of sale the Referee shall accept a written bid from the Plaintiff or the Plaintiff's attorney, just as though Plaintiff were physically present to submit said bid; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee shall accept the highest bid offered by a bidder who shall be identified upon the court record, and shall require that the successful bidder immediately execute Terms of Sale for the purchase of the property, and pay to the Referee, in cash or certified or bank check, ten percent (10%) of the sum bid, unless the successful bidder is Plaintiff in which case no deposit against the purchase price shall be required; and it is further

ORDERED, ADJUDGED AND DECREED that, in the event the first

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successful bidder fails to execute the Terms of Sale immediately following the bidding upon the subject property or fails to immediately pay the ten percent (10%) deposit as required, the property shall immediately and on the same day be reoffered at auction;

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and it is further

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ORDERED, ADJUDGED AND DECREED that, after the property is sold, the Referee shall execute a deed to the purchaser, in accordance with RPAPL §1353

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and the terms of sale, which shall be deemed a binding contract; and it is further

ORDERED, ADJUDGED AND DECREED that, in the event a party other than the Plaintiff becomes the purchaser at the sale, the closing of title shall be held no later than 30 days after the date of such sale unless otherwise stipulated by all parties to the sale; and it is further

ORDERED, ADJUDGED AND DECREED that, if Plaintiff (or its affiliate, as defined in paragraph (a) of subdivision 1 of section six-1 of the Banking Law) is the purchaser, such party shall place the property back on the market for sale or other occupancy: (a) within 180 days of the execution of the deed of sale, or (b) within 90 days of completion of construction, renovation, or rehabilitation of the property, provided that such construction, renovation, or rehabilitation proceeded diligently to completion, whichever comes first, provided however, that a court of competent jurisdiction may grant an extension for good cause shown; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee, on receiving the proceeds of such sale, shall forthwith pay therefrom, in accordance with their priority according to law, all taxes, assessments, sewer rents, or water rates, which are, or may

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become liens on the property at the time of sale, with such interest or penalties which may have lawfully accrued thereon to the date of payment; and it is further

ORDERED, ADJUDGED AND DECREED, that the Referee then deposit the balance of said proceeds of sale in ~~his~~/his own name as Referee in any FDIC insured bank account and shall thereafter make the following payments in accordance with RPAPL §1354, as follows:

FIRST: The Referee's statutory fees for conducting the sale, in accordance with CPLR 8003(b), ~~not to exceed $500.00 unless the property sells for $50,000.00 or more or in the event a sale was cancelled or postponed, Plaintiff shall compensate the Referee in the sum of $ for each adjournment or cancellation, unless the Referee caused the delay~~ shall be $750.00;

SECOND: All taxes, assessments, and water rates that are liens upon the property and monies necessary to redeem the property from any sales for unpaid taxes, assessments, or water rates that have not become absolute, and any other amounts due in accordance with RPAPL §1354(2). Purchaser shall be responsible for interest and penalties due on any real property taxes accruing after the sale. The Referee shall not be responsible for the payment of penalties or fees pursuant to this appointment. The Purchaser shall hold the Referee harmless from any such penalties or fees assessed;

THIRD: The expenses of the sale and the advertising expenses as shown on the bills presented and certified by said Referee to be correct,

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duplicate copies of which shall be annexed to the report of sale;

FOURTH: The Referee shall then pay to the Plaintiff or its attorney the following:

Judgment Amount: $458,072.51 with interest at the note rate from September 1, 2018 to date of entry of this judgment, together with any advances as provided for in the note and mortgage which Plaintiff has made for taxes, insurance, principal, and interest, and any other charges due to prior mortgages or to maintain the property pending consummation of this foreclosure sale, not previously included in the computation, upon presentation of receipts for said expenditures to the Referee, all together with interest thereon pursuant to the note and mortgage, and then with interest from the date of entry of this judgment at the statutory rate until the date the deed is transferred;

Costs and Disbursements: $ 2091.67 adjudged to the Plaintiff for costs and disbursements in this action, as taxed or calculated by the Clerk and inserted herein, with interest at the statutory judgment rate from the date of entry of this judgment;

Additional Allowance: $ 300.00 is hereby awarded to Plaintiff in addition to costs, with interest at the statutory judgment rate from the date of entry of this judgment, pursuant to CPLR Article 83;

HHB JSC

Attorney Fees: $4,950.00 is hereby awarded to Plaintiff as reasonable legal fees herein, with interest at the statutory rate from the date of entry of

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FIFTH: Surplus monies arising from the sale shall be paid into

Comptroller

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accordance with RPAPL §1354(4) and in accordance with local County

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Rules regarding Surplus Monies; and it is further

ORDERED, ADJUDGED AND DECREED that if the Plaintiff is the purchaser

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of the property, or in the event that the rights of the purchasers at such sale and the terms of sale under this judgment shall be assigned to and be acquired by the Plaintiff, and a valid assignment thereof is filed with said Referee, said Referee shall not require Plaintiff to pay in cash the entire amount bid at said sale, but shall execute and deliver to the Plaintiff or its assignee, a deed or deeds of the property sold upon the payment to said Referee of the amounts specified in items marked "First", "Second", and "Third" above; that the Referee shall allow the Plaintiff to pay the amounts specified in "Second" and "Third" above when it is recording the deed; that the balance of the bid, after deducting the amounts paid by the Plaintiff, shall be applied to the amount due Plaintiff as specified in paragraph "Fourth" above; that Plaintiff shall pay any surplus after applying the balance of the bid to the Referee, who shall deposit it in accordance with paragraph "Fifth" above; and it is further

ORDERED, ADJUDGED AND DECREED that all expenses of recording the Referee's deed, including real property transfer tax, which is not a lien upon the property at the time of sale, shall be paid by the purchaser, not by the Referee from

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sale proceeds and that any transfer tax shall be paid in accordance with Tax Law §1404; and it is further

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ORDERED, ADJUDGED AND DECREED that even if the sale proceeds distributed in accordance paragraphs "First," "Second, "Third", and "Fourth" above are insufficient to pay Plaintiff the Amount Due as set forth in paragraph "Fourth" above, Plaintiff has waived and may not seek to recover a deficiency judgment in accordance with RPAPL§1371; and it is further

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ORDERED, ADJUDGED AND DECREED that the mortgaged property is to be sold in one parcel in "as is" physical order and condition, subject to any condition that an inspection of the property would disclose; any facts that an accurate survey of the property would show; any covenants, restrictions, declarations, reservations, easements, right of way, and public utility agreements of record, if any; any building and zoning ordinances of the municipality in which the mortgaged property is located and possible violations of same; any rights of tenants or persons in possession of the subject property; prior liens of record, if any, except those liens addressed in RPAPL§1354; any equity of redemption of the United States of America to redeem the property within 120 days from the date of sale; and any rights pursuant to CPLR 317, 2003, and 5015, or any appeal of the underlying action or additional litigation brought by any defendant or its successor or assignee contesting the validity of this foreclosure; and it is further

ORDERED, ADJUDGED AND DECREED that the purchaser be let into possession of the property upon production in hand of the Referee's Deed or upon personal service of the Referee's deed in accordance with CPLR 308; and it is further

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ORDERED, ADJUDGED AND DECREED that the defendants in this action and all persons claiming through them and any person obtaining an interest in the property after the filing of the Notice of Pendency are barred and foreclosed of all right, claim, lien, title, and interest in the property after the sale of the mortgaged property; and it is further

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ORDERED, ADJUDGED AND DECREED that within 30 days after completing the sale and executing the proper conveyance to the purchaser, unless the time is extended by the court, the officer making the sale shall file with the clerk a report under oath of the disposition of the proceeds of the sale in accordance with RPAPL §1355(1) and follow all local County rules regarding handling of Surplus Monies; and it is further

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ORDERED, ADJUDGED AND DECREED that if the purchaser or purchasers at said sale default(s) upon the bid and/or the terms of sale the Referee may place the property for resale without prior application to the Court unless Plaintiff's attorneys shall elect to make such application; and it is further

ORDERED that the caption of this action be amended by striking "John Doe #2" through "John Doe #10" and substituting Kayla Hernandez for John Doe #1 and amending the caption to reflect said amendments, all without prejudice to the proceedings heretofore had herein; and it is further

ORDERED that the caption shall read as follows:

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

----------X

NJCC-NYS COMMUNITY RESTORATION FUND LLC,

Plaintiff

- against -

MARGARITA MORENO; STATE OF NEW YORK; NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE; KAYLA HERNANDEZ,

Defendants.

----------X

Index No. 605415/2018

Mortgaged Property:
42 Wagon Lane a/k/a Wagon Lane East
Centereach, New York 11720

County: Suffolk

SBL # 0200-443.00-02.00-068.000

J.S.C.

and it is further

ORDERED, ADJUDGED AND DECREED that Plaintiff shall serve a copy of this Judgment with Notice of Entry upon the owner of the equity of redemption, any tenants named in this action, and any other parties or persons entitled to service, including the Referee appointed herein; and it is further

ORDERED, ADJUDGED AND DECREED that nothing herein shall be deemed to relieve Plaintiff of any obligation imposed by RPAPL §1307 and RPAPL §1308 to secure and maintain the property until such time as ownership of the property has been transferred and the deed duly recorded; and it is further

ORDERED, ADJUDGED AND DECREED that, when the Referee files a report of sale, he [redacted] shall concurrently file a Foreclosure Actions Surplus Monies Form; and it is further

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SERVICELINK

Reference ID: [redacted] Title No: [redacted]

SEARCH NO.

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**Schedule A - Description of the Premises**

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ALL that certain plot, piece or parcel of land with the buildings and improvements thereon erected, situate, lying and being in the Town of Brookhaven, County of Suffolk and State of New York, known and designated as Lot 303 on a certain map entitled, "Map of Eastwood Village, Section 4" filed in the Office of the Clerk of the County of Suffolk on January 24, 1955 as Map No. 2317, which said lots is bounded and described as follows:

BEGINNING at a point on the westerly side of Wagon Lane East, distant 605 feet northerly from the northerly end of the curve connecting the northerly side of Wagon Lane south with the westerly side of Wagon Lane East;

RUNNING THENCE South 84 degrees 48 minutes 34 seconds West, a distance of 125.00 feet;

RUNNING THENCE North 05 degrees 11 minutes 26 seconds West, a distance of 75.00 feet;

RUNNING THENCE North 84 degrees 48 minutes 34 seconds East, a distance of 125.00 feet to the westerly side of Wagon Lane East; and

THENCE South 05 degrees 11 minutes 26 seconds East, a distance of 75.00 feet along Westerly side of Wagon Lane to the point or place of BEGINNING.

**42 Wagon Lane, Centereach, New York (Town of Brookhaven) Suffolk County**
**TAX ACCT. NO. 0200-443.00-02.00-068.000**

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ORDERED, ADJUDGED AND DECREED that to ensure compliance herewith, Plaintiff shall file a written report with the court within six months from the date of entry of this judgment stating whether the sale has occurred and the outcome thereof.

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Said property is commonly known as 42 Wagon Lane a/k/a Wagon Lane East, Centereach, New York 11720.

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The legal description of the mortgaged property referred to herein is annexed hereto as Schedule A.

DATED: February 7, 2019.

ENTER:

, J.S.C.

HON. HOWARD H. HECKMAN, JR.

Judith A. Pascale

ORDERED that in the event there is a third-party sale, plaintiff shall send an attorney to the closing.

ORDERED that the scope of a referee's duties are defined by the order of reference (CPLR 4311 & RPAPL 1321) and the reference has no power beyond that which is limited in this order of reference (*Zaslavskaya v. Boyanzhu*, 144 AD3d 675, 41 NYS3d 237 (2nd Dept., 2016)). In this action, the referee is hereby directed to ascertain the sums due and owing to the plaintiff, and to determine whether the premises can be sold in parcels. No hearing shall be required as the referee is appointed to hear and report, which is a purely ministerial act. Objections, if any, shall be the subject of applications made directly to the court.

GRANTED

FEB 07 2019

Judith A. Pascale
CLERK OF SUFFOLK COUNTY

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2019 FEB 28 A 9:58

JUDITH A. PASCALE
SUFFOLK COUNTY CLERK

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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NJCC-NYS COMMUNITY RESTORATION FUND LLC,

Plaintiff,

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-against-

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MARGARITA MORENO; STATE OF NEW YORK; NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE; "JOHN DOE #1" through "JOHN DOE #10" inclusive the names of the ten last name Defendants being fictitious, real names unknown to the Plaintiff, the parties intended being persons or corporations having an interest in, or tenants or persons in possession of, portions of the mortgaged premises described in the Complaint,

Defendants.

----------X

**COSTS OF PLAINTIFF**

INDEX NO.: 605415/2018

MORTGAGED PROPERTY:
42 Wagon Lane a/k/a Wagon Lane
East
Centereach, New York 11720

COUNTY: Suffolk

DSBL #: 0200-443.00-02.00-068.000

COST TAXED AT $ 209.62
TIME ____ DAY OF ____
FEB 28 2019
JUDITH A. PASCALE
CLERK OF SUFFOLK COUNTY

**COSTS**

| | |
|---|---|
| Costs before Note of Issue - CPLR 8201(1)..... | $200.00 |
| Allowance by statute - CPLR 8302(a)(b)..... | $100.00 |
| First $200.00 at 10%.....$20.00 | |
| Next $800.00 at 5%.....$40.00 | |
| Next $2000.00 at 2%.....$40.00 | |
| Next $5000.00 at I% .....$50.00 | |
| | $150.00 |
| Additional allowance - CPLR 8302(d)..... | $50.00 |
| Discretionary costs on motion - CPLR 8303(a)(l)..... | $ |
| | $ 400.00 |

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**FEES AND DISBURSEMENTS**

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|---|---|---|
| Fee for index number- ..... | CPLR 8018(a) | $400.00 |
| Paid for searches - ..... | CPLR 830I(a)(10) | $400.00 |
| Serving copy of Summons and Complaint - ..... | CPLR 8301(d) | $486.67 |
| Reproduction costs- ..... | CPLR8301(a)(6) | ____ |
| Fees for publication of Summons - ..... | CPLR 8301(a)(3) | ____ |
| Certified copies of papers - ..... | CPLR 830l(a)(4) | ____ |
| Request for judicial intervention - ..... | CPLR 8020(a) | $95.00 |
| Clerk's fee for filing of Notice of Pendency- ..... | CPLR 8021(a)(l0) | $220.00 |
| Skip trace fees - ..... | CPLR 8301(d) | ____ |
| Motion fees - ..... | CPLR 8020(a) | $90.00 |
| Note of Issue - ..... | CPLR 8020(a) | ____ |
| **Total** ..... | | $ 2091.67 |

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**ATTORNEY'S AFFIRMATION**

The undersigned, Richard F. Komosinski, Esq., pursuant to CPLR 2106 and under penalties of perjury affirms as follows:

That he is the attorney of record for the Plaintiff in the above-captioned action, that the foregoing disbursements have been incurred in this action and are reasonable in amount, and that the copies of documents or papers charged for herein were actually and necessarily obtained.

DATED: Elmsford, New York
December 14, 2018

Richard F. Komosinski, Esq.
Knuckles, Komosinski & Manfro, LLP
Attorneys for Plaintiff
565 Taxter Road, Suite 590
Elmsford, New York 10523
(914) 345-3020

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JUDITH A. PASCALE
SUFFOLK COUNTY CLERK